

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PROPOSED
amendment of ARM 4.13.1001A and))	AMENDMENT AND REPEAL
repeal of 4.13.1004 relating)	
to the state grain lab fee)	NO PUBLIC HEARING
schedule)	CONTEMPLATED

TO: All Concerned Persons

1. On June 25, 2005, the Montana Department of Agriculture proposes to amend and repeal the above-stated rules relating to the state grain lab fee schedule.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on June 9, 2005 to advise us of the nature of the accommodation that you need. Please contact Joel Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2402; TTY: (406) 444-4687; Fax: (406) 444-5409; or E-mail: agr@mt.gov.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

4.13.1001A GRAIN FEE SCHEDULE (1) The effective date of this rule is July ~~2, 2004~~ 15, 2005.
(2) through (3)(f) remain the same.
(i) near infrared transmittance (NIRT)
wheat, barley and corn..... \$5.50
(ii) and (iii) remain the same.
(g) corn, oil and/or starch..... \$3.00
(g) through (k)(i) remain the same but are renumbered (h) through (l)(i).
(4) through (5)(i)(i) remain the same.
~~(ii) kjeldahl method (e.g., malting barley)~~..... ~~\$8.00~~
(iii) and (iv) remain the same but are renumbered (ii) and (iii).
(j) through (n) remain the same.

AUTH: 80-4-721, MCA
IMP: 80-4-721, MCA

REASON: The state of Montana grain laboratory is a designated lab by the Federal Grain Inspection Service (FGIS), and subject to its supervision. Effective July 1, 2005, FGIS will require the near infrared transmittance (NIRT) method for testing for all proteins, and necessitates the discontinuance of the kjeldahl method. Because of this change, barley and corn

proteins, which had been analyzed under the kjeldahl method, will now be added as a NIRT test.

Corn, oil and/or starch and a fee are added because the lab has recently acquired the capability to do the test. An economic impact statement is not required, as the fees are a voluntary fee for obtaining services of the lab.

4. The rule proposed to be repealed provides as follows:

4.13.1004 BARLEY PROTEIN is found on page 4-560 of the Administrative Rules of Montana.

AUTH: 80-4-721, MCA

IMP: 80-4-721, MCA

REASON: Effective July 1, 2005, the State Grain Lab will no longer use the kjeldahl method to do analysis.

5. Concerned persons may submit their data, views or arguments concerning the proposed amendment and repeal in writing to Joel Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov. Any comments must be received no later than June 23, 2005.

6. If persons who are directly affected by the proposed amendment and repeal wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Joel Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov. A written request for hearing must be received no later than June 23, 2005.

7. If the agency receives requests for a public hearing on the proposed amendment and repeal from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 650 persons based on 6500 grain producers in Montana.

8. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding noxious weed seed free forage,

noxious weeds, alfalfa seed, agriculture in Montana schools program, agriculture development, pesticides, warehouseman, produce, mint, seed, alternative crops, wheat research and marketing, rural development and/or hail. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

9. An electronic copy of this Notice of Proposed Amendment and Repeal is available through the Department's website at www.agr.mt.gov, under the Administrative Rules section. The Department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

DEPARTMENT OF AGRICULTURE

/s/ Nancy K. Peterson
Nancy K. Peterson, Director

/s/ Timothy J. Meloy
Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State, May 16, 2005.